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SUMMARY OF
"THE FBI IN OUR OPEN SOCIETY"

A Book by
Harry and Bonaro Overstreet

(Not for Dissemination Outside the Bureau)



FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
John Edgar Hoover, Director

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rebutting the various anti-FBI
charges and to be a guide to r
ing the book.
5. Monograph is complete in itself.
6. Monograph will have current value as a reference work after
three or six months or a year.

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OF
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John Edgar Hoover, Director
Federal Bureau of Investigation
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FOREWORD

"The FBI in Our Open Society," written by Harry and Bonaro Overstreet and released for sale in February, 1969, is an inquiry into the nature and operations of the FBI. It discusses in detail many of the virulent charges that the FBI runs "amuck" without regard to the rights of individuals and groups and is, therefore, a danger to our democratic society. The conclusions reached by the authors state that such criticism is unfair, not factual, and that the FBI, far from being a danger to our society, has capably and properly stood as a defense of law and the rights of citizens.

This document has been prepared to summarize the authors' analysis of many of the unfounded, slanted, or distorted charges against the FBI and its leadership. It should be a helpful reference in rebutting the various anti-FBI charges. In addition, it is designed to serve as a guide to the reading of the book which is highly readable and intellectually stimulating. Certainly, the book deserves to be read because of its detailed and thorough analysis of FBI operations and its conclusions that present the FBI in an objective and favorable light.

In their rebuttals of anti-FBI claims, the authors
rely, not on "inside information," but on sources available to
public viewing. That approach, of course, increases the
effectiveness of their survey of FBI critics, for it makes
obvious the bias of those who carelessly or purposely neglect or
distort what is "on the record."

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PART I

PART I--Introduction to Complexity--covers the origin and history of the FBI up to the appointment of Mr. Hoover as Director in 1924.

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CHAPTER ONE--The Past That Was Prologue--concerns the creation of the FBI as a result of growth of Federal laws. It traces the origins of the Attorney General's position and the Department of Justice, and notes the investigative resources of the Federal Government during the Presidency of Theodore Roosevelt.

1. The FBI is a by-product of the expansion of Federal laws.

2. The Attorney General's position was created by Congress in 1789 and the Attorney General was given administrative control over United States district attorneys and marshals by Congress in 1861.

3. The Department of Justice was created by Congress with the Attorney General as its head in 1870.

4. Congress first voted \$50,000 for the detection and prosecution of crimes against the United States in 1871.

5. Secret Service agents, hired detectives, and examiners were used by the Attorney General in investigations of alleged violations.

6. Opposition developed to the use of hired detectives since some had criminal or unsavory backgrounds.

7. President Theodore Roosevelt was opposed by politicians and business interests in his efforts to control the "trusts" and fight corruption in Federal land dealings.

CHAPTER TWO--Challenge and Decision--discusses the action of Attorney General Charles J. Bonaparte in establishing the Bureau of Investigation to provide the Department of Justice with its own investigators.

1. Attorney General Charles J. Bonaparte sought a permanent detective force for the Department of Justice to end the practice of "borrowing" investigators from the Secret Service.

2. In 1908, Congress denied money for payment to Secret Service agents detailed or transferred for use by other agencies.

3. Attorney General Bonaparte on July 1, 1908, created a force of detectives, special agents, and examiners under a chief examiner, and this group became a permanent subdivision of the Department of Justice on July 27, 1908, under Presidential instructions.

4. Conflict arose immediately between President Theodore Roosevelt and Congressional figures over the creation of the special subdivision.

5. The subdivision was named the Bureau of Investigation in 1909 by Attorney General George W. Wickersham under President Taft.

CHAPTER THREE--The Making of Dark Years--
depicts several questionable activities of the Bureau of Investigation during and shortly after World War I that are in contrast to Mr. Hoover's policies. It concludes with the naming of Mr. Hoover as Director in 1924.

1. At the urging of A. Bruce Bielaski, head of the Bureau of Investigation, Attorney General Thomas W. Gregory used a private group, the American Protective League (APL), to investigate and report disloyal acts during World War I. Badges and cards bearing "Secret Service Division" were sanctioned for APL members. Mr. Hoover, by contrast, has never allowed volunteers to invade FBI areas of responsibility.

2. In World War I, "dragnet" methods were used against draft dodgers, a procedure for mass arrests never authorized by Mr. Hoover.

3. The "Palmer raids" under Attorney General A. Mitchell Palmer in 1919 and 1920 involved excesses in arrest procedures that were directed by William J. Flynn, then head of the Bureau of Investigation. Mr. Hoover, then in charge of the General Intelligence Division of the Bureau, had no control over the Bureau's field work.

4. Mr. Hoover was named Director of the Bureau of Investigation in 1924 after a long search by Attorney General Harlan Fiske Stone and a careful inquiry into Mr. Hoover's background and performance in the Department of Justice since 1917.

PART II

PART II--Men at Work--explores the modern FBI,
including the means of control over its operations.

CHAPTER FOUR--The Searchlight of Tragedy--
considers the testimony of Mr. Hoover and
former Assistant to the Director Alan H.
Belmont before the President's Commission
on the Assassination of President Kennedy
(Warren Commission). Mr. Hoover expressed
reluctance to install extreme security
measures as smacking of a "police state."

1. In discussing before the Warren Commission in 1964 the security of a President, Mr. Hoover said that "absolute security" would be impossible without a "police state" and "we don't want that." He noted further that the "enforcement of security and the enforcement of laws dealing with subversion ought to be handled in the American manner." In this regard, Mr. Hoover voiced his concern that increased security measures tend to "diminish the area of the rights of the individual."

2. Drew Pearson, Harold Feldman, and former Special Agent William W. Turner were critical of the FBI's handling of Oswald after his return from Russia and prior to the assassination of President Kennedy. The three "would all give far more weight than would either Hoover or (Chief of the Secret Service) Rowley to personal erraticisms, a professed belief in Marxism, and overt, but nonviolent, manifestations of pro-Communism."

It is pertinent to ask if the critics would have said the FBI "persecuted" Oswald had it taken him into custody or closely surveilled him because of his background.

3. The Warren Commission report noted that the new standards for referring individuals to the Secret Service as threats against the President are still too narrow and might not have resulted in "referral of Oswald to Secret Service."

CHAPTER FIVE--The Bureau's License to Act--
affirms that the FBI must have proper authority before investigation.

1. While the FBI's jurisdiction is continually being expanded, there are limitations on its actions. Only when Congress makes some act a Federal crime can the FBI investigate. Also, if the Supreme Court, on constitutional grounds, reverses a conviction in a Federal case involving the FBI, the FBI then must end investigations under the invalidated law.

2. The FBI cannot be properly charged with infringing on constitutional rights by conducting investigations under laws or sections of laws which are later declared unconstitutional by the Supreme Court. For the FBI to refuse to investigate alleged violations of certain laws or sections of laws it believes unconstitutional prior to such court decisions would be to arrogate to itself the right to anticipate Supreme Court rulings.

CHAPTER SIX--The Intelligence Assignment--
discusses the FBI's activities in the intelligence field and notes that neither Congress nor the Supreme Court has questioned the FBI's right to carry out its responsibilities in the security and intelligence fields.

1. The FBI was ordered into the intelligence field in 1939 by President Franklin D. Roosevelt.
2. Mr. Hoover has been condemned for exaggerating the threat of espionage, specifically by Fred J. Cook, although Mr. Hoover's statements and policies refute such claims.
3. Mr. Hoover refused to accept help from volunteer "investigators" in World War II and vigilantism was kept to a low level during this period. This rational approach to security is also noted in Mr. Hoover's opposition to the internment of the West Coast Japanese at that time.
4. The Supreme Court, in deciding that the State of Pennsylvania's sedition law was pre-empted by Federal statutes in national security matters, made "unassailable" the right and duty of the FBI to carry out both its law enforcement and its intelligence functions in the national security field.
5. The Supreme Court, while holding against several statutes of Congress in the security field, has not questioned the right of Congress to legislate in that field.

CHAPTER SEVEN--The Problem of Size--provides refutation to the claim that Mr. Hoover seeks to expand the size and influence of the FBI.

1. Mr. Hoover has stated his preference for a smaller FBI despite critics' charges that he seeks to enlarge it.

2. Former Special Agent Turner has charged that Mr. Hoover uses the automobile theft statistics to justify the "Bureau's appropriation," but the House Subcommittee on Appropriations knows the meaning of the statistics and can evaluate them accordingly.

3. In 1940, the "New York Daily News" warned that Congress should withhold funds for Mr. Hoover if it did not want an American OGPU. By way of contrast, in the same year Mr. Hoover turned down the plan of then Attorney General Robert H. Jackson to have Mr. Hoover assume direction of all Federal investigative and intelligence agencies.

4. Mr. Hoover stated in his testimony for the 1962 FBI appropriation that the additional work given the FBI had been absorbed with present personnel despite the fact that the hearing indicated he could have had more funds for the asking.

5. The growth of the FBI cannot be seen as an isolated phenomenon, for it has been given duties that eventually required more personnel.

6. In his book, "The Federal Bureau of Investigation," Max Lowenthal uses a statement of Senator Kenneth McKellar who claimed astonishment at the growth of the "secret service" of the Department of Justice in the 1930s. The Senator was a member of the Congress that had passed kidnapping and extortion

laws and a packet of laws called the Federal Crime Act--laws that Mr. Hoover did not author, but which drastically enlarged FBI jurisdiction.

7. Calls for reduction in the size of the FBI have not been constructive, but destructive, in spirit. Alternatives to continued growth of the FBI would involve greater assumption of responsibilities on local and state levels and also by private interests.

CHAPTER EIGHT--Checks and Controls--analyzes internal and external controls on the FBI which prevent it from being a "runaway" agency.

1. The primary danger from FBI growth is that of decentralization which would weaken the structure of accountability.

2. The FBI chain of command with strict channels of operations and reporting provides an important internal control.

3. The external controls of the FBI include the letter of the law, the Attorney General, Department of Justice policies, Congressional appropriation committees, and the courts. Mr. Hoover himself has stated that the FBI should never be permitted to become an independent agency operating without checks and controls.

4. The growth of the FBI has not necessarily resulted in a decrease in control by the Attorney General as size alone does not determine the degree of accountability. What is important are the means used to review and control FBI operations and personnel.

5. One problem in insuring proper use of the Bureau can come from an Attorney General who wants to use the FBI for his own purposes. Attorney General Palmer and Attorney General Harry Daugherty are two Attorneys General who infected the old Bureau of Investigation with the spirit of illegality.

6. Former Special Agent Jack Levine has claimed that FBI agents use wiretaps not known to FBI officials or the Department of Justice in order to secure high conviction statistics reportedly demanded by Mr. Hoover. If true, such a situation would mean that wiretap evidence could be smuggled into the Government's evidence, a most implausible circumstance.

7. Critic Fred J. Cook has charged that Mr. Hoover's concern for the letter of the law leaves little room for the "free-wheeling detective work" needed to fight organized crime. This belief is unusual since Cook has accepted Levine's charge that FBI Agents wiretap illicitly and smuggle data into evidence. Such free-wheeling would obviously be the "surest way" for the FBI to help criminals remain free from court sanction.

CHAPTER NINE--The Eavesdropping Problem--
concludes that surveillance by electronic means is essential to the security of our society, although its use must be balanced against the constitutional rights of our citizens to privacy.

1. The problem in the use of electronic surveillances in our open society is to achieve a balance of society's rights and those of the individual.

2. Mr. Hoover's longtime approach to wiretap activities has called for close controls and includes written authority from the Attorney General.

3. Lowenthal states in his book, "The Federal Bureau of Investigation," that Senator Burton K. Wheeler acknowledged that a Senate Committee report in 1940 was aimed at the FBI because of its wiretapping. Actually, Senator Wheeler never did acknowledge what Lowenthal claims and the hearings covered in the report are related not to FBI wiretapping, but to private wiretapping of political figures.

4. Legislation sought by Attorneys General Robert F. Kennedy and Nicholas Katzenbach would have outlawed private and public wiretaps and then spelled out, in the public interest, a few exceptions to the general rule.

5. Morris Ernst, then counsel for the American Civil Liberties Union, stated in 1950 that he had checked into charges of misconduct by FBI Agents, but concluded that a smear campaign was being carried on against Mr. Hoover since the charges could not be substantiated. Lowenthal in his book published in 1950 claims uninhibited indulgence in illegal wiretapping by the FBI, but offers no evidence of having investigated those matters as did Ernst.

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CHAPTER TEN--The Informant--outlines the role of informants in FBI operations and presents support for the use of informants from prominent public officials and agencies.

1. Criticism of Mr. Hoover, as in "The Nation" of November 30, 1964, for finding "informers" to be "truly patriotic individuals" seems to convey a high moral tone. However, those who have criticized the FBI's use of informants are selective in their thinking and thus do not condemn the use of informants "across the board" as a matter of principle--only when the informants are used against themselves or those with whom they are sympathetic.

2. The double standard the critics advocate in informant use is typified by the writings of Fred J. Cook in his book, "The FBI Nobody Knows." Cook condemns FBI informants who are witnesses against communist defendants as an unstable lot while calling for penetration of underworld mobs by persons less law-bound than FBI agents.

3. The use of informants is defended by statements of Judge Learned Hand, former Attorneys General Kennedy and Katzenbach, other former Justice Department officials, and the President's Commission on Law Enforcement and Administration of Justice.

4. While critics have voiced a fear of informants, a safeguard on the use of informants is provided by the courts which must pass on the admissibility of evidence given by informants as witnesses.

PART III

PART III--This Controversial Bureau--analyzes the controversial nature of the FBI as a reflection of the various segments of our society which hold strong and clashing viewpoints.

CHAPTER ELEVEN--The FBI in the American Scene--sets the stage for other chapters by noting several aspects of the FBI's controversial nature, including its need to remain silent about much of its work.

1. The FBI is controversial since groups--criminal and subversive--whose interests may suffer as a result of FBI investigations attack the FBI and its methods to divert attention from the groups' activities.

2. Another reason the FBI is controversial is that it bears "the burden of man's ancient, well-justified fear of a secret police." This is compounded because much of the FBI's work must remain unpublicized.

3. A third reason for the FBI's being controversial involves the complexity of jurisdiction in the United States. The FBI is attacked by those who believe the Federal Government is imposing its will on the states as well as by those who believe the Federal Government is yielding to States' rightists.

4. Several cases, including the Weinberger kidnapping case in 1956, the bombings in and near Birmingham, Alabama,

in 1963, and the murder of Medgar Evers, NAACP field representative, in Jackson, Mississippi, in 1963, illustrate the controversy regarding overlapping jurisdictions and demands for either more or less action by Federal authorities.

5. James A. Wechsler, "New York Post" writer, has falsely accused Mr. Hoover of failure to push FBI investigations to discover those responsible for racial violence in the South because Mr. Hoover wanted to remain in favor with "Southerners" who controlled the FBI's budget. At the time of his charge, only one member of the House Subcommittee on Appropriations was from below the Mason-Dixon Line--Congressman Robert L. Sikes of Florida. Also, Wechsler implied that the FBI should have been guarding Medgar Evers as a result of previous threats against him. This, of course, is a police function which the Justice Department could not have authorized.

CHAPTER TWELVE--Out of Communism's Lexicon--
covers the Communist Party, USA, propaganda efforts
to reduce the "power" of the FBI.

1. The Communist Party, USA, has conducted a long campaign of rigid, repetitious anti-FBI propaganda that tries to create in the American people a distrust of the FBI which will do what the Party by itself cannot do: curtail the FBI's power to do its job.

2. The nature and continuity of the anti-FBI campaign are illustrated by reviews that have appeared in the Communist

Party press about two anti-FBI books--"The Federal Bureau of Investigation" by Max Lowenthal and "The FBI Nobody Knows" by Fred J. Cook. These books, being strongly critical of the FBI, are praised for revealing the "dangers" of the FBI to our society. However, the reviewers note that neither Lowenthal nor Cook gives a Marxist-Leninist interpretation to the FBI's existence and actions.

3. In their lengthy campaign against Mr. Hoover, the communists have labelled him a "Gestapoman" and leader of a "frame-up gang." They have likened the FBI to the secret police of the Russian czars--the Ochrana--while not mentioning Stalin's secret police.

4. Cropping up from time to time in communist propaganda is an effort to name Mr. Hoover as the "hatchet man" in the "Palmer raids" of 1919-1920, although Mr. Hoover did not set the pattern of the raids and did not participate in them. Rebuttal to such charges is shown in a speech by Congressman Emanuel Celler of New York in 1940 as well as in a Congressional inquiry into the raids that did not place any blame on Mr. Hoover.

5. Many who believe the FBI is a threat to our type of society are not communists, but they are intellectually dishonest by "loading" the evidence, as do the communists, to make a case against the FBI.

6. The FBI and other Government agencies must be measured against standards of our own society, not by those of a Party forbidden to do other than denounce any institution that thwarts communism's "historic mission" to control all countries of the world.

CHAPTER THIRTEEN--Babel, U.S.A.--develops the theme that claims of inadequate or improper FBI activities need checking before acceptance as statements of fact.

1. In judging statements about an agency like the FBI, it is necessary to note contradictions, to assign varying degrees of importance to the different types of evidence, and to seek the authority for the statements.

2. Criticism of the FBI's Most Wanted Program by a "Las Vegas Review-Courier" article in 1963--that when criminals are put on the list the FBI has them staked out and picks them up as soon as wanted notices are published--and by Negro activist Dick Gregory in 1964--that the "top ten" are wanted for minor crimes or moral matters--is refuted by facts overlooked or omitted purposely by those critics.

3. Charges by columnists Chalmers Roberts and Drew Pearson in 1963 and 1964 that Mr. Hoover has long feuded with the Secret Service and the CIA are contrary to voluntary statements placed on the record by those presently or in the past in key posts in those agencies, including Secret Service

Chief James J. Rowley and the late Allen Dulles, former Director of the CIA.

4. Drew Pearson charged in 1963 that Mr. Hoover wanted to take over the work of the Criminal Investigative Division of the Army in the continental United States. But, in claiming unnamed members of the Army agency as the source, Pearson has relieved the reader of accepting such "pig-in-a-poke" evidence.

5. Rumors picturing Mr. Hoover as seeking to enlarge his power assume he wants the FBI to grow bigger and have his jurisdiction expanded. Repeated so often that it is hardly questioned, this assumption is in contradiction to Mr. Hoover's opposition to various plans to place him over several agencies or to absorb them into the FBI.

CHAPTER FOURTEEN--Expose after Expose--
notes that "The Nation" magazine, in presenting its anti-FBI articles, does not represent a truly liberal approach.

1. "The Nation" has a right to believe what it wants about Mr. Hoover and to express its opinions in editorials. However, its expose articles on the FBI are not editorials and it is relevant to ask what level of reportage they represent.

2. The continuance of our system may not depend on Mr. Hoover, "The Nation," or the authors, but one thing indispensable is a liberalism that shows fairness to those criticized, respect for rules of evidence, and a sense of responsibility to those asked to believe our words.

3. "Hoover and the Red Scare," an article by former Special Agent Jack Levine in "The Nation" of October 20, 1962, should be viewed in the light of his admitted short career in the FBI and an admitted lack of experience in the internal security field.

4. Also to be questioned are several contradictions in the Levine-based criticism of the FBI. For instance, contradictory versions of his reason for joining the FBI are presented--(1) curiosity to see what the FBI was like and (2) attraction to the lofty ideal the FBI projected of "honest, dedicated law enforcement and unselfish public service." There is a contrast also in two public versions of why he left the FBI--(1) disillusionment with the FBI and (2) desire to aid his parents overburdened with business responsibilities.

5. Levine's article charges that the Communist Party, USA, was so weak and so largely composed of FBI informants that it was no threat. However, Mr. Hoover, Levine claims, called it a threat to justify huge budget requests. Levine also claims that White House and Justice Department officials were astonished when informed by him of the number of informants and the FBI's plan to neutralize the American communists if a Soviet-United States war becomes likely. That information of such sensitive and classified matters was given, according to Levine, to new Agents in training but not to top Government officials is implausible.

6. "The Nation," in accepting Levine's statements as gospel, did more than various Congressmen and newsmen who asked Levine to document his charges of misconduct against Mr. Hoover and the FBI. The fact that newsmen asked for documentation caused Levine to regard the newsmen as fearful that publication of criticism of Mr. Hoover would cause an adverse reaction among advertisers. This explanation by Levine appears melodramatic.

7. "Oswald and the FBI" by Harold Feldman in "The Nation" of January 24, 1964, presents the theme that Oswald was probably an FBI "informer" and that is why his name was not given to Secret Service prior to the assassination of President Kennedy. Feldman claims that statements supporting the FBI's investigation of the assassination should be suspect as leaked on FBI orders or slanted by intimidated witnesses. While seeking to show itself as well documented, the article actually relies on several questionable sources, especially those identified as anonymous, to make a case that Oswald was an FBI informant, a conclusion not substantiated by the Warren Commission inquiry.

8. If "The Nation" can find only rumor-laden and implausible material to undercut the FBI, then the FBI cannot be doing too bad a job.

CHAPTER FIFTEEN--Who Thinks He Wants What?--
discusses criticism of Mr. Hoover and the
FBI by "New York Post" writer James A.
Wechsler.

1. Those virulent individuals who want Mr. Hoover removed are similar to John Birch Society followers who have proposed that Chief Justice Earl Warren be impeached. They would want the FBI to become responsive to their values alone. Their demands, therefore, must be scrutinized to prevent the FBI from becoming an investigative body that would be intolerable.

2. Wechsler charges in a "New York Post" column in 1963 that the FBI was keeping the Communist Party alive and actually strengthening it through informants and their activities. Curiously, while protesting against FBI penetration of the Party, in the same year Wechsler condemns the FBI for alleged failure to penetrate the "racist mobs." Actually, the FBI had penetrated the Klan groups to the point that those groups had imposed security measures making it difficult for informants to operate.

3. Another of Wechsler's criticisms, made in "The Progressive" magazine in 1964, is that all Federal activity in the civil rights field should be taken from the FBI and given to some agency that could protect the "freedom fighters," since the FBI had failed to do so. What Wechsler was demanding, again curiously, was that a duly assigned part of FBI work

should be transferred because the FBI was not trespassing beyond the limits of its assignments to perform strictly police functions.

4. Despite Wechsler's above demand, he does not provide the answers to pertinent questions such as: Does he propose an alternative agency to be given broader power by Congress than that given to the FBI? Does he advocate a constitutional amendment to transfer police powers vested in the states? Does he visualize an agency that, when a good cause is at issue, would not be inhibited by law?

5. Wechsler in a 1965 "New York Post" editorial attacks Mr. Hoover for "again trespassing into dubious areas," primarily the University of California at Berkeley. Inquiry showed that FBI Agents were only "looking on" since the FBI has intelligence responsibilities requiring it to collect data about incidents and persons on and off campuses in the national security field.

6. It is unfortunate that Wechsler has ignored the FBI's performance of its role in the civil rights field and has chosen to condemn it for not doing what it could not do legally. His hostility to Mr. Hoover and the FBI actually renders a negative service to the cause that Wechsler supports.

CHAPTER SIXTEEN--The FBI According to Lowenthal--
is a refutation of much of Lowenthal's
criticism of the FBI in his book, "The Federal
Bureau of Investigation."

1. Published in 1950, Lowenthal's book, "The Federal Bureau of Investigation," contains the most extensive criticism of the FBI. While Lowenthal as an author is granted the privilege of selecting material for his anti-FBI presentation, he abuses that privilege by omitting data needed to properly evaluate the propriety of his choices.

2. Lowenthal uses the 1908 statements of several Congressional
ional
Congressmen concerning the dangers of a central police or spy system in the Federal Government to imply that they held the view that the creation of the Bureau of Investigation would result in an undesirable agency. However, the statements were actually directed against the use of the Secret Service as a central source of investigative manpower and not against the type of departmental force that Attorney General Bonaparte wanted to establish.

3. Lowenthal states that Congress in 1908, by ending the practice of Government agencies borrowing Secret Service agents, showed the intention of denying the Attorney General the right to employ detectives. However, Congress did vote money that the Attorney General sought in order to employ detectives and, as a result, he created the Bureau of Investigation on July 1, 1908.

4. Lowenthal's book is slanted toward showing that the modern FBI is the realization of Congressional fears of 1908 that a "Federal police force at the Department of Justice would some day adopt practices...abhorrent to democracy."

5. In addition to being unwanted, Lowenthal charges that the Bureau of Investigation was unneeded since its early cases were of a "somewhat makeshift character." He passes over the fact that there were important cases under investigation at the time, including antitrust cases.

6. The Mann Act, passed in 1910, according to Lowenthal, gave the Bureau of Investigation its taste for cases that make headlines. He omits mentioning, however, that publicized Departmental policy in 1911 was that the focus on Mann Act investigations should be strictly on cases involving commercialism in interstate transportation for immoral purposes. Lowenthal, not looking at the full picture of the Mann Act cases during Mr. Hoover's direction of the FBI, omits discussion of commercialized incidents.

7. Lowenthal charges that the 1940 arrests of individuals in Detroit and Milwaukee for alleged criminal action in recruiting for Spanish Civil War service raised doubts that the FBI was successful in indoctrinating its agents in the "true meaning and purpose of the Constitution and the Bill of Rights." He also claims that Attorney General Robert H. Jackson's investigator reported that FBI Agents had engaged in conduct possibly violating the Constitution. This claim is contradictory to the actual statements of Attorney General Jackson and his aide which exonerated the FBI Agents of illegal methods of arrest and questioning in the above matter.

8. While Lowenthal's book presents much documentation, sources used actually disprove the points made by him, for they are generally taken out of context. It appears, therefore, that the long listing of sources is designed not to encourage the reader to read those materials, but to impress the reader that further inquiry is not necessary.

CHAPTER SEVENTEEN--The FBI According to Cook--
covers criticism of the FBI presented by Fred J. Cook in his book, "The FBI Nobody Knows."

1. Most of Cook's case against Mr. Hoover and the FBI comes from secondary sources, including Lowenthal's book which Cook claims "was not factually discredited in any respect" when published.

2. Cook's opinion that Congressmen were enraged by Attorney General Bonaparte's creation of the Bureau of Investigation in 1908 makes Bonaparte a villain. By contrast, Bonaparte actually fought political corruption and could not be bribed or intimidated by the "trusts" then attempting to extend their economic control--a cause to which Cook himself has addressed much sympathy.

3. Cook relies also on former Special Agent Jack Levine, depicting him as having an "all-American-boy look" and a successful FBI career before resigning. Needless to say, numerous facts in the public domain have been omitted by Cook, for they contradict his views of Levine and the FBI.

4. Levine, in his campaign attacking Mr. Hoover, offered information on FBI activities in organized crime,

civil rights, and infiltration of the Communist Party, USA, to various Government officials who, Levine improperly surmised, had not been advised of such matters by the FBI.

5. Cook at one point berates Don Whitehead, author of "The FBI Story," as an FBI apologist. Later in his own book, Cook grants Whitehead more authority than he possessed in quoting from Whitehead as a person having "access" to FBI files.

6. Cook also discusses, as did Lowenthal, the arrests of recruiters for the Spanish Civil War in 1940. To buttress his anti-FBI bias in this case, Cook uses the anti-FBI remarks of Senator George W. Norris whose views of the arrests were admittedly based upon an editorial in an issue of "The New Republic" in 1940 which was not alleged by the Senator to contain "facts" known to him personally.

7. Cook claims that official Washington is intimidated by Mr. Hoover, citing a situation in which the publisher of the "New York Post" had found that "some of the most distinguished figures on the Hill simply will not be quoted on the subject of Hoover." In addition, Cook, through quotes from unnamed liberal Congressmen who express fear of Mr. Hoover, attempts to make Mr. Hoover responsible for an atmosphere of conformity. It can be said that the unnamed Congressmen seem to be feeble carriers of the liberal tradition if they are afraid to express their views.

CHAPTER EIGHTEEN--The Turner Story--refutes
some of the criticisms by former Special Agent
William W. Turner.

1. Former Special Agent William W. Turner wrote an article for "Saga" magazine of March, 1964, entitled "The FBI Could Have Saved President Kennedy's Life!" The article claims that Turner's inquiry into the assassination showed that the FBI had included Oswald's name on a "risk list" that was given to Secret Service somewhat reluctantly due to FBI jealousy of the Secret Service. Actually, evidence shows there was no such list.

2. Turner claims in this article that a Dallas FBI Agent had interviewed Oswald ten days before the assassination, contrary to later testimony in the Warren Commission inquiry that determined Oswald had not been interviewed by the FBI after his return from Mexico in early October, 1963.

3. Turner concluded in 1964 from his inquiry that Oswald was the lone assassin with no plot involved. In 1967, he changed his opinion by advocating a conspiracy thesis in several "Ramparts" magazine articles, the plot allegedly designed to prevent a detente with Cuba which President Kennedy was supposedly planning.

4. In an article in "The Nation" of November 8, 1965, entitled "Crime Is Too Big for the FBI," Turner falsely alleges that the FBI avoids coming to grips with organized crime and has "pet crimes"--bank robberies, kidnappings, and car thefts--in

which it "specializes." Such crimes, Turner wrongly asserts, are mostly "amateurish" capers easily investigated to a conclusion.

5. Turner is contemptuous of the FBI's war on criminal gangs in the 1930s, charging that Agents indulged in reckless gunfire. This charge recalls a statement made by Senator Kenneth McKellar in the 1937 Senate Appropriations Committee hearings that he saw no excuse for so much gunfire by FBI Agents in gangster investigations. The then Senator Harry Truman asked at that point, "How would you catch them, Senator, if they commenced shooting at you?"

6. According to Turner, Mr. Hoover would not cooperate with a special Justice Department group on organized crime in the late 1950s. The group was actually satisfied with FBI help at first, but later wanted a substantial number of FBI Agents assigned to it. Mr. Hoover turned down the request to avoid making the FBI an agent-lending bureau.

7. Turner also charges that the FBI had authority for a massive campaign against organized crime but was "legalistic" in saying it had little jurisdiction in such matters. While listing several laws available to fight organized crime, Turner forgot to mention that the more significant of those laws were not enacted while he was with the FBI and that Robert F. Kennedy, while Attorney General, stated that the laws passed in 1961 and 1962 gave the FBI jurisdiction "for the first time" to investigate large-scale gambling, the primary source of wealth for the criminal syndicates. Since the passage of those laws,

the FBI has been increasingly successful in bringing hoodlums to justice.

8. Documents related to Turner's discharge from the FBI and his later attempts to gain reinstatement are discussed in some detail from court records. Turner's basis for demanding re-employment in the FBI is his claim of immunity from FBI action resulting from his efforts to discredit Mr. Hoover and the FBI--and not a claim that the accusatory statements he made were true.

CHAPTER NINETEEN--The Exploitative Adulators--
probes the "far right" in its selective
support of Mr. Hoover and the FBI.

1. Several elements of the "far right," such as the United Klans of America and the National States Rights Party, have prepared anti-FBI propaganda no less virulent than that of the communist left. For example, the National States Rights Party labelled three FBI informants in the 1964 Mississippi civil rights workers murder case as "lying paid pimps."

2. Other less extreme groups of the "far right" praise Mr. Hoover and quote him extensively, but in a way that seeks to justify their own views. For instance, the Church League of America tried to dissociate Mr. Hoover from Assistant Director W. C. Sullivan's speeches in the early 1960s which

denied "an extensive and substantial infiltration of the American clergy" by communists. The League tried to show that these speeches contradicted Mr. Hoover. Another group explained that Mr. Hoover was pressured by the Kennedy Administration to have the speeches made.

3. The "far right" quotes Mr. Hoover often, but it also ignores his statements that are unpalatable to them--such as his statements to the Warren Commission that the "extreme right is just as much a danger to this country as is the extreme left," and that he found no evidence of any foreign or domestic conspiracy "that culminated in the assassination of President Kennedy."

4. The anticommunism of the "far right" and Mr. Hoover are not cut from the same cloth, for Mr. Hoover is committed to liberty under law. He shows no obsession with the "communist menace" as do the "far rightists" who even see a communist plot in the enactment of gun control measures. Communist domination of major organized groups in the civil rights field is alleged despite Mr. Hoover's publicized disclaimers that the legitimate groups have by and large warded off communist efforts at penetration.

PART IV

PART IV--Unfinished Business--concerns the unwarranted criticism of the FBI in the fields of civil rights and organized crime investigations.

CHAPTER TWENTY--One Federal Suit--discusses an FBI-investigated case in which the Department of Justice successfully sought an injunction to prevent the harassing of Negroes and civil rights workers in Bogalusa, Louisiana.

1. The FBI provided extensive evidence for the Department of Justice in connection with the Department's civil suit in 1965 seeking an injunction against the Original Knights of the Ku Klux Klan, the Anti-Communist Christian Association, and 38 individuals in and around Bogalusa, Louisiana. The suit sought to prevent them from interfering with persons seeking to exercise rights guaranteed under the Constitution.

2. The evidence against the defendants was so overwhelming that the defense admitted what many witnesses would have been called to prove in order to reduce the revelation of numerous assaults and acts of intimidation and harassment. A three-judge panel in Federal Court granted the injunction in December, 1965.

3. The FBI's task of gathering evidence to use in court against a Klan defendant calls for ingenuity, courage, and patience as shown in the Bogalusa trial through revelation of

Klan procedures to screen and prevent members from serving as FBI informants.

CHAPTER TWENTY-ONE--FBI vs. KKK--is concerned with the FBI's efforts to investigate the Ku Klux Klan and to develop informants within Klan groups.

1. The FBI has been involved in investigation of Klan activities since 1921 and was investigating 14 Klan-type organizations 100 years after the founding of the KKK in 1865.
2. The Klan groups attempt to create a public image of patriotism, dedication to Christian principles, and ardent anticommunism as a "respectable" cover for the terror and violence of hard-core members.
3. The impulse killing of Lemuel Penn, the Washington, D. C., Negro educator, in 1964 in Georgia points to the fact that FBI informants are unable to give advance warning of violence when Klan-type individuals follow impulse rather than plans. The suspects in the Penn case were arrested by the FBI and with evidence collected were turned over to state authorities for murder charges. Acquitted of the murder charges, several of the suspects were later convicted in Federal court of conspiring to deprive a citizen of his civil and constitutional rights.
4. The charge of James A. Wechsler of the "New York Post" that the FBI has shown neither the will nor capacity to cope with anti-Negro violence in the South is ill-founded since

the FBI has identified and arrested numerous suspects in anti-civil-rights violence and has been praised in the past by such groups as the NAACP for its investigations in such matters.

CHAPTER TWENTY-TWO--Federal Law and Civil Rights--considers the Federal statutes under which the FBI operates in the civil rights field.

1. Statutes under which the FBI investigates in the civil rights field are in two categories: (1) older criminal statutes surviving from the Reconstruction Era, including Sections 241, 242, and 371 of Title 18, U.S. Code, and (2) the Civil Rights Acts of 1957, 1960, 1964, 1965, and 1968 which are both criminal and civil.

2. Section 241 of Title 18, U.S. Code, forbids a conspiracy by two or more persons to deprive a citizen of constitutional and legal rights. The Supreme Court has for almost a century been ruling as to specific rights involved and now there is usually a precedent when the Department of Justice orders the FBI to investigate an alleged infringement of rights or to arrest a suspect under Section 241. The section is limited to citizens, not aliens, and as a conspiracy statute is useless when the threat to civil liberty comes from the action of one person alone.

3. Section 242 of Title 18, U.S. Code, forbids willfully depriving the rights of persons under color of law,

statute, ordinance, regulation, or custom and is commonly called the police-brutality statute.

4. Section 371 of Title 18, U.S. Code, is the general conspiracy statute aimed at reaching persons willfully encouraging and helping the commission of any Federal crime and is used in conjunction with both Sections 241 and 242.

5. There was a broad attack on the FBI's use of Section 242 in the early 1950s. Mr. Hoover, in a letter in "The New York Times" of August 26, 1953, replied to the then Governors Fine, Battle, and Dewey of Pennsylvania, Virginia, and New York respectively by stating that Section 242 was still the law of the land and that the Attorney General had the duty to set policy for the FBI to investigate alleged violations of laws enacted by Congress.

6. In a decision in the case of the three civil rights workers killed in Mississippi in 1964, which the FBI solved, the Supreme Court in 1966 held that private persons "jointly engaged with state officials" in a violation of Section 242 are acting under "color of law" for the purposes of the statute.

7. The Civil Rights Acts of 1957, 1960, 1964, 1965, and 1968 deal primarily with the area of civil law and are aimed at protecting and promoting the exercise and enjoyment of civil rights and basic opportunities in various fields, including local and national elections, housing, entertainment, education, and

religion. The 1968 Act has sections of both criminal and civil law, several forbidding interstate travel to aid, incite, or participate in rioting and to teach the manufacture or use of firearms and explosives to foment civil disorders.

8. While the FBI assignments in the civil rights field are broader than in 1957, in no statute is there any authority for the FBI to protect individuals and civil rights workers as is often demanded.

CHAPTER TWENTY-THREE--The FBI and Civil Rights--relates to FBI handling of complaints in civil rights matters.

1. FBI procedure after the receipt of a civil rights complaint in police brutality cases is to make a preliminary investigation and refer the matter to the Department of Justice for consideration as to further action. Other complaints in the civil rights field are referred to the Department of Justice which decides whether or not Federal prosecution is justified and, if so, the FBI is then instructed to investigate to collect evidence.

2. The FBI has sought good working relations with local officers interested in doing a responsible job in the civil rights field and has furnished such officers information from informants that has helped identify perpetrators of non-Federal crimes. In addition, the FBI has participated in many police training schools, providing instruction to clarify elements and constitutional significance of the civil rights

acts, to share investigative know-how, and to discuss mob control.

3. Civil rights cases are hard to prosecute because of the limits of Federal law and because of the verdicts often given by juries with no seeming relation to the evidence presented. The results of FBI investigations and Federal prosecutions cannot be measured solely by convictions. For instance, following vigorous FBI investigations in lynching cases in the 1940s, the number of lynchings declined. Also, each conviction under the police brutality statute--Section 242 of Title 18, U.S. Code--has been a lever to end practices inimical to due process.

4. In 1961, the FBI, at the instruction of the Department of Justice, conducted a survey in 294 cities in 17 states regarding segregation practices in interstate bus facilities. The evidence was used by the Department to gain an Interstate Commerce Commission ruling to end such segregation.

5. In 1961 and 1962, the FBI investigated allegations of racial discrimination in voting in more than 100 counties. The Department of Justice used the data collected in filing 30 suits in five states. One former Department official has noted that the mere starting of an FBI investigation frequently brings compliance with laws providing equal rights for Negroes.

6. James A. Wechsler, in alleging that the FBI has been a failure in the civil rights field, has quoted from four

paragraphs of a 1947 report of President Truman's Committee on Civil Rights. His presentation of the quotes would indicate the FBI had been singled out for criticism for inadequate performance in civil rights matters at that time. Actually, the paragraphs are from a section of the report containing broad recommendations for improvement of Federal civil rights enforcement machinery, for the Committee found perfection at no point in that machinery. Wechsler also omitted mentioning the Committee's praise for the FBI, United States Attorneys, and the Civil Rights Section of the Department of Justice in handling civil rights matters. The record shows that, despite Wechsler's attempt to claim otherwise, the FBI has been active and successful in its civil rights investigations.

CHAPTER TWENTY-FOUR--The What and How of
Organized Crime--discusses organized crime
and the effectiveness of the FBI in fighting
it.

1. Organized crime's accumulation of wealth enables it to purchase power by corrupting officials. Its primary source of funds is gambling, followed by loan-sharking. Becoming more important as its source of wealth is its infiltration of legitimate business.

2. La Cosa Nostra, which dominates organized crime, uses murder to eliminate those it cannot control. With a membership of about 5,000, it is divided into 24 "families" throughout the country.

3. To combat organized crime, law enforcement needs to penetrate a shroud of secrecy. The FBI for several decades has collected "inside" data for its own use and for dissemination to aid local and national law enforcement agencies. The President's Commission on Law Enforcement and the Administration of Justice said in 1967 that the FBI alone had been able to "document fully the national scope" of La Cosa Nostra groups. This assessment contradicts the claims of Fred J. Cook and former Special Agent Turner that Mr. Hoover and the FBI have been unwilling and unable to penetrate and come to grips with the underworld. Turner also goes so far as to imply that Mr. Hoover himself may have been under the influence of organized crime forces.

CHAPTER TWENTY-FIVE--Elements of a Counter-Offensive--summarizes the cases of several high-ranking criminals in La Cosa Nostra in which the FBI investigated and collected evidence for the convictions.

1. Despite the problems of obtaining witnesses to testify, convictions of high-echelon hoodlums in organized crime are increasing. In cases investigated by the FBI in whole or in part, 281 convictions of organized crime figures were secured in fiscal year 1968.

2. The convictions of such hoodlums have consequences that adversely affect organized crime. These include the creation

of fear of prosecution among other hoodlums, the closing of income sources, and a struggle for leadership involving gang warfare.

3. The elements of an effective counteroffensive against organized crime include Federal laws that reach into various aspects of the crime group operations; improvement of local police forces to be more competent and less corruptible; the concern of citizens at the grass roots; and a body at the Federal level--the Organized Crime and Racketeering Section of the Department of Justice--to aid interagency collaboration.

4. Anti-FBI propagandists, particularly former Special Agent Turner and Fred J. Cook, claim that, while **Mr. Hoover has failed against** organized crime, the Justice Department's Special Group on Organized Crime of the late 1950s was necessary for a successful attack on the crime syndicates. Twenty of those at the 1957 Apalachin, New York, hoodlum meeting were convicted under a Federal conspiracy charge promulgated by the Special Group, a development applauded by Cook. The convictions, however, were reversed on appeal--a fact admitted by Cook but without his indicating the reasons which certainly cast doubt on the Special Group's tactics. The court's decision of reversal castigated the Group's approach as a travesty upon due process, and one judge said the prosecution should not have been initiated. This, of course, places Cook in the position of supporting questionable procedures in fighting crime.

CHAPTER TWENTY-SIX--The FBI and the Concerned Citizen--lists citizens' responsibilities to the FBI and closes with a discussion of the FBI's part in the Federal employee security investigations.

1. In our system of government that is committed to preserving a balance between heritage and heresy, the FBI performs a dual role of gathering intelligence about forces threatening our society and of helping to bring to prosecution those forces which have violated laws in crossing the line between legitimate dissent and lawbreaking.

2. If our system of freedom under law is to be maintained, citizens must not claim a special privilege to break the law nor must the law be changed except by duly provided means. In addition, the criminal must not be regarded as a hero or underdog. To help reduce crime, the public should also respond positively to suggestions that serve to lessen crime, such as locking the doors of parked cars.

3. The public owes the FBI--and every other agency of our Government--in this time of irresponsible and calculated rumor-mongering a refusal to repeat criticism until the charges are checked as to accuracy.

4. The FBI should be able to count on community interest in police-improvement programs that are needed to raise law enforcement standards in our Nation.

5. In the Federal Government applicant screening process, the FBI operates under a fixed policy that those who investigate

must not evaluate, and no evidence has been found that the FBI departs from the policy established in two executive orders.

6. There is a complaint that the FBI's so-called "dossiers" on individuals are receptive to malicious falsehood. The FBI does take all types of information, for how could it select and reject information from citizens and agencies without substituting for investigation some "intuitive" method to separate fact from falsehood. Also, FBI files must be confidential in order for it to remain a neutral recipient of data.

7. The Federal employee security program which was initiated after World War II was condemned by some as a gigantic "witch-hunt" used by Mr. Hoover in his "war" on liberals and dissenters. Morris Ernst, as counsel for the American Civil Liberties Union, checked out numerous complaints and concluded there was no convincing evidence to support the charges. Ernst, reporting on his findings in an article, "Why I No Longer Fear the FBI," in the "Reader's Digest," December, 1950, notes that the FBI was being attacked for conducting a "witch-hunt" by some, while others attacked it for not finding as many subversives as they thought it should.